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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,739	09/24/2003	Mattias Johansson	65,748-886	4481
27305	7590	07/06/2004	EXAMINER	
HOWARD & HOWARD ATTORNEYS, P.C. THE PINEHURST OFFICE CENTER, SUITE #101 39400 WOODWARD AVENUE BLOOMFIELD HILLS, MI 48304-5151			HANSEN, COLBY M	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/669,739

**Applicant(s)**

JOHANSSON ET AL.

**Examiner**

Colby Hansen

**Art Unit**

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☒ Certified copies of the priority documents have been received in Application No. 09/174,748.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17, 19, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Huff et al (US Pat. 2,860,720).

Huff et al (US Pat. 2,860,720) discloses an adjustable pedal assembly comprising: a mounting arrangement for attachment to a vehicle structure; at least one pedal (60,62) pivotally supported with respect to said mounting arrangement and defining a first pivot axis (64); and an adjustment element (40) pivotally supported with respect to said mounting arrangement and defining a second pivot axis (48), said adjustment element (40) for selectively moving said pedal (60,62) between a plurality of operable positions; said assembly characterized by said pedal (60,62) being pivotally supported with respect to said adjustment element (40) wherein said second pivot axis (48) is generally parallel to said first pivot axis (64); including a drive mechanism (70,78,80,82) operably connected to said adjustment element (40) for selectively rotating said adjustment element (40) about said second pivot axis (48); wherein said drive mechanism includes a gear assembly with a rotor element that is driven by an electric motor (11); wherein said pedal (60,62) is connected to an actuator for activating a vehicle system, said actuator having a deformable connection to the vehicle structure that deforms and prevents said pedal (60,62) from moving toward a vehicle driver when a predetermined load is achieved;

Art Unit: 3682

wherein at least one pedal (60,62) is a plurality of pedals that are pivotally supported with respect to said mounting arrangement (40), with each pedal having a respective pedal pivot axis; wherein said pedal pivot axes are generally parallel to said second pivot axis (48); wherein said pedal pivot axes are non-collinear with respect to said second pivot axis (48); wherein said pedal pivot axes are collinear forming said first pivot axis (64); wherein said adjustment element (48) includes a connector extending between a first ear and a second ear (fig. 3), said first and second ears having pivotal connections with respect to said mounting arrangement such that said connector can pivot about said second pivot axis (48); wherein said pivotal connection for said first ear is a connection to a drive mechanism and said pivotal connection for said second ear is an articulated connection to a fixed mounting element (see fig. 3); wherein at least one pedal is an accelerator pedal (62) extending downwardly from said adjustment element (40) and terminating at an accelerator pedal pad, said accelerator pedal (62) being pivotal about said first pivot axis (64); including a brake pedal (60) extending downwardly from said adjustment element (40) and terminating at a brake pedal pad, said brake pedal being pivotal about said first pivot axis (64); wherein said adjustment element (40) simultaneously adjusts longitudinal positions of said accelerator (62) pedal and said brake pedal (60) when selectively activated by a driving mechanism; wherein said adjustment element (40) simultaneously adjusts angular positions of said accelerator pedal pad and said brake pedal pad when selectively activated by said driving mechanism; wherein said first (64) and second (48) pivot axes are non-collinear; wherein said first pivot axis (64) moves with respect to said second pivot axis (48) as said adjustment element (4) rotates about said second pivot axis (48).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huff et al (US Pat. 2,860,720).

Huff et al (US Pat. 2,860,720) discloses the claimed invention except for an angle formed between said first and second pivot axes being in the range of 30 degrees to 40 degrees. It would have been obvious to one having ordinary skill in the art at the time then invention was made to have utilized an angle between said first and second pivot axes of between 30 and 40 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huff et al (US Pat. 2,860,720) in view of French Patent 2 739 947.

Huff et al (US Pat. 2,860,720) discloses the claimed invention except for the use of an electric signal generator for actuation of the accelerator, brakes, and/or clutch.

French Pat. 2739947 discloses a modular electric signal generator responsive to pivotal movement of a pedal for electrically controlling a vehicle system in response to pivotal movement of said pedal about an axis of rotation, said electric signal generator further defined as

Art Unit: 3682

a potentiometer that emits an electric signal varying with the pivotal position of said pedal between said rest and applied positions about said axis.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the modular electric signal generator of French Pat. 2739947, between the pedals and support structures of Huff et al (US Pat. 2,860,720) as an actuator of the accelerator, brakes, and/or clutch with a modular mounting structure that allows for easier manufacturing of pedal structures of a vehicle.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huff et al (US Pat. 2,860,720) in view of Dzioba et al. (US Pat. 5,172,606).

Huff et al (US Pat. 2,860,720) discloses the claimed invention except for a clutch pedal included with the accelerator and brake, the clutch pedal having the same simultaneous adjustability of the accelerator and brake.

Dzioba et al. (US Pat. 5,172,606) discloses an adjusting mechanism for an accelerator, brake, and clutch.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have added a clutch pedal and mechanism to the adjustable accelerator and brake pedals of Huff et al (US Pat. 2,860,720) so as to be able to utilize the adjustment mechanism of Huff et al (US Pat. 2,860,720) within a standard transmission, as suggested by Dzioba et al. (US Pat. 5,172,606).



Art Unit: 3682

### ***FACSIMILE TRANSMISSION***

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 305-3597**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

\_\_\_\_\_  
(Signature)


If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (703) 305-1036. The examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

Art Unit: 3682

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

  
DAVID A. BUCCI 6/28/04  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Colby M. Hansen

  
Patent Examiner 6/26/04